International Criminal Court ICC-ASP/2/1/Add.1

Assembly of States Parties

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8-12 September 2003

Annotated list of items included in the provisional agenda

Note by the Secretariat

The following annotated list of the items contained in the provisional agenda for the second session of the Assembly of States Parties to the Rome Statute of the International Criminal Court (ICC-ASP/2/1) has been prepared to assist the Assembly in its consideration of issues before it at its second session, which will be convened in New York on Monday, 8 September 2003, at 10 a.m. The first session of the Assembly was held in New York, from 3 to 10 September 2002,[1] and the first and second resumptions of the first session were held in New York from 3 to 7 February 2003 and from 21 to 23 April 2003.[2] The status of the documentation reflected herein is current as of 16 July 2003.

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Annotated list of items included in the provisional agenda

1. Opening of the session by the President

In accordance with article 112, paragraph 6, of the Rome Statute, the Assembly meets once a year in regular session. In accordance with rule 5 of the rules of procedure of the Assembly,[3] the Assembly, at its 3rd meeting, on 9 September 2002, decided to convene its second session in New York from 8 to 12 September 2003.[4]

Rule 30 of the rules of procedure provides that the President shall declare the opening of each plenary meeting of the session. At its 1st meeting, on 3 September 2002, the Assembly elected H.R.H. Prince Zeid Ra'ad Zeid Al-Hussein (Jordan) President.[5] In accordance with rule 29 of the rules of procedure, the President is elected for a three-year term.

2. Silent prayer or meditation

Pursuant to rule 43 of the rules of procedure, immediately after the opening of the first plenary meeting and immediately preceding the closing of the final plenary meeting, the President shall invite the representatives to observe one minute of silence dedicated to prayer or meditation.

3. Adoption of the agenda

Rules 10 to 13 and 18 to 22 of the rules of procedure concerning the agenda are applicable to regular sessions.

In accordance with rules 10 and 11 of the rules of procedure, the provisional agenda for the second session (ICC-ASP/2/1) was issued on 23 June 2003. It will be submitted to the Assembly for approval, in accordance with rule 19 of the rules of procedure.

Documentation

Provisional agenda (ICC-ASP/2/1)

4. Credentials of representatives of States Parties at the second session

(a) Appointment of the Credentials Committee

(b) Report of the Credentials Committee

Representation and credentials are regulated by rules 23 to 28 of the rules of procedure. In accordance with rule 24, the credentials of representatives of States Parties and the names of alternates and advisers shall be submitted to the Secretariat if possible not later than 24 hours after the opening of the session. The credentials shall be issued by the Head of State or Government or by the Minister for Foreign Affairs or by a person authorized by either of them.

Under rule 25, a Credentials Committee, consisting of representatives of nine States Parties to be appointed at the beginning of each session by the Assembly on the proposal of the President, shall examine the credentials of representatives of States Parties and report to the Assembly without delay.

5. Organization of work

The Assembly will consider and adopt a programme of work at the beginning of the session on the basis of a proposal by the Bureau.

6. Report on the activities of the Bureau

In accordance with article 112, paragraph 2 (c), of the Rome Statute, the Assembly shall consider the reports and activities of the Bureau and take appropriate action in regard thereto. At the second session, the President will present an oral report on the activities of the Bureau during the first year of its operation (September 2002-September 2003).

7. Report on the activities of the Court

Under article 112, paragraph 2 (b) of the Rome Statute, the Assembly shall provide management oversight to the Presidency, the Prosecutor and the Registrar regarding the administration of the Court. In accordance with article 112, paragraph 5, of the Rome Statute, the President of the Court, the Prosecutor and the Registrar or their representatives may participate in meetings of the Assembly. As provided in rule 34 of the rules of procedure, they may make oral or written statements and provide information on any question under consideration.

8. Establishment of the secretariat of the Assembly of States Parties

By its resolution ICC-ASP/1/Res.9, the Assembly requested the Bureau to study the question of the permanent secretariat of the Assembly and to submit related proposals to the Assembly so that it might take a decision thereon at its second session. The Bureau was also requested to study the modalities for the progressive replacement of the provisional Secretariat.

Documentation

Proposals of the Bureau concerning the establishment of the secretariat of the Assembly ICC-ASP/2/3

9. Consideration and adoption of the budget for the second financial year

In accordance with article 112, paragraph 2 (d), of the Rome Statute, the Assembly shall consider and decide on the budget of the Court.

Regulation 3 of the financial regulations and rules of the Court[6] provides that the Registrar shall prepare the proposed programme budget for each financial period and submit it to the States Parties as well as to the Committee on Budget and Finance for its consideration and comments and recommendations to the Assembly.

Under regulation 2.1, the financial period of the Court shall consist initially of one calendar year unless otherwise decided by the Assembly for the first-year budget of the Court. By its resolution ICC-ASP/1/Res.12, the Assembly resolved that, as an exception to regulation 2.1, the first financial period would extend from 1 September 2002 to 31 December 2003.

Documentation

Draft programme budget for 2004 (ICC-ASP/2/2)

Report of the Committee on Budget and Finance containing its comments and recommendations to the Assembly (ICC-ASP/2/_)

10. Adoption of the scale of assessments

Rule 91 of the rules of procedure and regulation 5.2 of the financial regulations and rules provide that the Assembly shall decide on a scale of assessment, under which the contributions of States Parties to the budget shall be assessed. In its resolution ICC-ASP/1/Res.14, the Assembly decided on the scales of assessment for the first financial period.

11. Consideration of audit reports

Regulation 12 of the financial regulations and rules provides that the Assembly shall appoint an Auditor to conduct audits in conformity with generally accepted common auditing standards, subject to any special directions of the Assembly and in accordance with the additional terms of reference set out in the annex to the financial regulations and rules. At its 11th meeting, on 22 April 2003, the Assembly was informed that the Bureau, acting under the delegated authority of the Assembly,[7] had appointed the National Audit Office of the United Kingdom of Great Britain and Northern Ireland as auditor for the Court for a period of four years.[8]

In accordance with regulation 12.7, the Auditor shall issue a report on the audit of the financial statements and relevant schedules relating to the accounts for the financial period. It was contemplated in the budget for the first financial period of the Court that an initial audit would cover the entire first financial period.[9]

In accordance with regulations 12.8 and 12.9, audit reports, before their submission to the Assembly, are subject to examination by the Registrar and the Committee on Budget and Finance. The Assembly considers and approves the financial statements and audit reports forwarded to it by the Committee on Budget and Finance with such comments as the Committee deems appropriate.

12. Election of the Deputy Prosecutor

Article 42, paragraph 4, of the Rome Statute, provides that the Deputy Prosecutor(s) shall be elected by secret ballot by an absolute majority of the members of the Assembly from a list of candidates provided by the Prosecutor. The Prosecutor shall nominate three candidates for each position of Deputy Prosecutor to be filled.

The procedure for the nomination and election of Deputy Prosecutor(s) is regulated by Assembly resolution ICC-ASP/1/Res.2.

13. Election of members of the Committee on Budget and Finance

By its resolution ICC-ASP/1/Res.4, the Assembly decided to establish a Committee on Budget and Finance. The Committee is composed of 12 members of a different nationality who shall be experts of recognized standing and experience in financial matters at the international level from States Parties. They shall be elected by the Assembly for a term of office of three years on the basis of equitable geographical distribution. Of the 12 members who are initially elected, four shall be elected for a

period of one year, four for a period of two years and the remaining four for a period of three years.

The procedure for the nomination and election of members of the Committee was approved by the Assembly in its resolution ICC-ASP/1/Res.5. As provided in paragraph 13 of that resolution, for the purpose of the first election the President shall draw lots to determine the cadence of term of office for the members elected.

As a result of the election of members of the Committee held at the 10th meeting of the Assembly, on 21 April 2003, 10 members were elected. Having received no nomination from Eastern European States, the Assembly decided to defer election of candidates from those States until its second session.[10]

By its resolution ICC-ASP/1/Res.16, the Assembly decided, inter alia, to defer the drawing of lots in accordance with paragraph 13 of its resolution ICC-ASP/1/Res.5 until the election of the two remaining members of the Committee.

14. Election of members of the Board of Directors of the Trust Fund for the benefit of victims of crimes within the jurisdiction of the Court, and families of such victims

By its resolution ICC-ASP/1/Res.6, the Assembly established a trust fund for the benefit of victims of crimes within the jurisdiction of the Court, and of the families of such victims, as well as a Board of Directors of the Trust Fund for the benefit of victims.

The Board shall have five members of a different nationality elected by the Assembly for a term of three years on the basis of equitable geographical distribution and taking into account the need to ensure equitable gender distribution and equitable representation of the principal legal systems of the world. The members of the Board shall serve in an individual capacity on a pro bono basis; shall be of high moral character, impartiality and integrity; and shall have competence in the assistance to victims of serious crimes.

In its resolution ICC-ASP/1/Res.7, the Assembly approved the procedure for the nomination and election of members of the Board of Directors of the Trust Fund for the benefit of victims.

At its 3rd meeting, on 9 September 2002, the Assembly postponed taking a decision concerning opening the nomination period for the members of the Board of Directors of the Trust Fund for the benefit of victims until the second resumption of its first session in April 2003.[11]

At its 11th meeting, on 22 April 2003, the Assembly decided to open the nomination period for members of the Board of Directors of the Trust Fund for the benefit of victims to run from 28 April to 21 August 2003.[12]

15. Report of the special working group on the crime of aggression

By its resolution ICC-ASP/1/Res.1, the Assembly decided to establish a special working group on the crime of aggression, open on an equal footing to all States Members of the United Nations or members of specialized agencies or of the International Atomic Energy Agency, for the purpose of elaborating proposals for a provision on aggression. It requested the Bureau to prepare a proposal for the meetings of the special working group and to submit it, with its budgetary

implications, at the earliest possible session with a view to holding the first meeting of the special working group in 2003.

At its 8th meeting, on 7 February 2003, the Assembly, inter alia, decided, on the basis of the proposal of the Bureau, that the special working group should meet during annual sessions of the Assembly, starting from its second session, in 2003. It also decided that two to three meetings of the Assembly should be allocated to the special working group, and that that pattern should be repeated, as necessary, each year.[13]

16. Establishment of an international criminal bar

At its 11th meeting, on 22 April 2003, the Assembly, on the basis of the report of the Bureau, decided to include in the agenda for its second session an item concerning the establishment of an international criminal bar.[14,15]

Documentation

Note by the Secretariat transmitting the report of the focal point appointed by the President of the Assembly on issues related to an international criminal bar (ICC-ASP/2/L.1)

17. Decisions concerning the next meeting, including dates and venue

In accordance with rule 5 of the rules of procedure, the date of commencement and duration of each session of the Assembly shall be decided by the Assembly at its previous session.

18. Decisions concerning the next meeting of the Committee on Budget and Finance, including dates and venue

In accordance with paragraph 4 of the annex to resolution ICC-ASP/1/Res.4, the Committee shall meet when required and at least once per year. At its 3rd meeting, on 9 September 2002, the Assembly decided that the Committee would meet in New York from 4 to 8 August 2003.

Notes

[1] See *Official Records of the Assembly of States Parties to the Rome Statute of the International Criminal Court, First Session, New York, 3-10 September 2002* (United Nations publication, Sales No. E.03.V.2 and corrigendum).

[2] See *Official Records of the Assembly of States Parties to the Rome Statute of the International Criminal Court, First Session (First and Second Resumptions), New York, 3-7 February and 21-23 April 2003* (United Nations publication, Sales No. E.03.V.8).

[3] See *Official Records of the Assembly of States Parties to the Rome Statute of the International Criminal Court, First Session* ..., part II.C.

[4] Ibid., part I, para. 39.

[5] Ibid, para. 7.

[6] Ibid, part II.D.

[7] Ibid, part I, para. 29.

[8] See *Official Records of the Assembly of States Parties to the Rome Statute of the International Criminal Court, First Session (First and Second Resumptions)* ..., part I, para. 40.

[9] See *Official Records of the Assembly of States Parties to the Rome Statute of the International Criminal Court, First Session* ..., part III, para. 117.

[10] See *Official Records of the Assembly of States Parties to the Rome Statute of the International Criminal Court, First Session (First and Second Resumptions)* ..., part I, para. 48.

[11] See *Official Records of the Assembly of States Parties to the Rome Statute of the International Criminal Court, First Session* ..., part I, para. 28.

[12] See *Official Records of the Assembly of States Parties to the Rome Statute of the International Criminal Court, First Session (First and Second Resumptions)* ..., part I, para. 51.

[13] Ibid., para. 37.

[14] Ibid., paras. 52 and 53.

[15] See *Official Records of the Assembly of States Parties to the Rome Statute of the International Criminal Court, First Session* ..., part I, para. 24.